

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: June 4, 2002

To: The Commission
(Meeting of June 6, 2002)

From: Bill Julian
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1734 (Pescetti)** – Creates the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC), formerly the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC), effective July 1, 2003, and would authorize the CPUC to enter into a personal services contract to obtain these specialized telecommunications services. The bill would extend the deadline from July 1, 2002 to July 1, 2003, for the transfer of DDTP funds from a Commission administered account to an account in the state treasury thereby providing time for a smooth transition from the current DDTPAC to TADDAC while avoiding program failure.

As Amended January 7, 2002

Recommendation: Support.

Summary: This bill would create the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC), formerly the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC), effective July 1, 2003, and would authorize the California Public Utilities Commission (CPUC) to enter into a personal services contract for these specialized telecommunications services.

The bill would extend the deadline from July 1, 2002 to July 1, 2003, for the transfer of DDTP funds from a Commission administered account to an account in the state treasury thereby providing time for a smooth transition from the current DDTPAC to TADDAC while avoiding program failure.

The bill also would require any moneys borrowed by the Deaf Equipment Acquisition Fund (DEAF Trust) from the California High Cost Fund B Trust that were deposited in a separate memorandum account within the DEAF Trust for the purpose of

reimbursement revert to the Controller for deposit in the California High Cost Fund B Trust Committee Fund in the State Treasury as of July 1, 2002.

The bill provides that any staffing costs incurred by the CPUC for oversight and administration of programs be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

Analysis: This bill would create the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC), formerly the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC), effective July 1, 2003, and would authorize the California Public Utilities Commission (CPUC) to enter into a personal services contract for these services.

Existing law requires that the DDTP fund be transferred to the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the state treasury by July 1, 2002. The CPUC currently holds these funds in a CPUC administered account and contracts out for fund administrators and programmatic employees. This bill would extend the deadline from July 1, 2002, to July 1, 2003, for the transfer of the DDTP funds to the state treasury thereby enabling the CPUC to transition from DDTPAC to TADDAC without experiencing program failure. By extending the deadline for the date of transfer of this fund, the CPUC can work with the existing DDTPAC to develop and submit, not later than October 1, 2002, recommendations to the CPUC regarding the administration and governance of the program. Moreover, the bill authorizes the CPUC to enter into a personal service contract with an entity or persons who can provide the necessary services for the program. The bill gives the CPUC time to work with the existing DDTPAC to develop program administration and governance plans as well as critical provisions to be contained in any personal services contract the CPUC enters into for these services.

This bill also would require any moneys borrowed by the Deaf Equipment Acquisition Fund (DEAF Trust) from the California High Cost Fund B Trust that were deposited in a separate memorandum account within the DEAF Trust for the purpose of reimbursement revert to the Controller for deposit in the California High Cost Fund B Trust Committee Fund in the State Treasury as of July 1, 2002.

The bill provides that any staffing costs incurred by the CPUC for oversight and administration of programs be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

Comments:

Legislative History:

SB 669 (Polanco), Chapter 677, Statutes of 1999, required the CPUC to transfer into the state treasury six funds associated with the telecommunications public programs created and operated by the CPUC. Presently, five of these funds

have been transferred and the only fund remaining outside of the state treasury is the Deaf and Disabled Telecommunications Program (DDTP) fund. Existing law requires that the DDTP fund be transferred by July 1, 2002.

Program Background

The CPUC has administered programs to assist the deaf and disabled in using telephone service since the 1980s. The programs provide specialized telecommunications equipment, discounted telephone rates, and a telecommunications translator service, known as a dual-party relay service, through which the deaf can communicate with others. These programs are currently contracted out with the DDTPAC providing expert advice and administration to the CPUC. The funding for these programs has been provided by a surcharge on telecommunications service, which has been kept in accounts administered by the CPUC. Aggregate program costs are approximately \$50 million annually.

Fiscal Impact

None. The bill provides that any staffing costs incurred by the CPUC for oversight and administration of programs be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

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Date: May 29, 2002

BJ:cdl

BILL LANGUAGE:

BILL NUMBER: AB 1734 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 13, 2002
AMENDED IN SENATE APRIL 30, 2002
AMENDED IN SENATE APRIL 16, 2002
AMENDED IN SENATE APRIL 2, 2002
AMENDED IN SENATE JULY 11, 2001

INTRODUCED BY Committee on Utilities and Commerce (Wright (Chair),
Calderon, Canciamilla, Cardenas, Diaz, Nation, Papan, Reyes, and
Wesson)

(Principal coauthor: Senator Polanco)

MARCH 26, 2001

An act to amend Sections 270.1 and 278 of, and to add
~~Section~~ Sections 278.5 and 2881.4 to, the Public
Utilities Code, relating to telecommunications, and declaring the
urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1734, as amended, Committee on Utilities and Commerce.
Telecommunications services.

(1) Existing law establishes the California High-Cost Fund-B Trust and the Deaf Equipment Acquisition Fund (DEAF Trust). Existing law authorizes the trustee of the California High-Cost Fund-B Trust to transfer money, on or before September 30, 2001, to the DEAF Trust to cover the costs of programs to provide specified telecommunications services and equipment to deaf or disabled persons in this state. Existing law requires the commission to reimburse the California High-Cost Fund-B Trust for any transfer of money to the DEAF Trust. Existing law requires that reimbursement during specified dates to the California High-Cost Fund-B Trust be deposited in a separate memorandum account within the DEAF Trust. Existing law requires that on July 1, 2002, any funds remaining in the DEAF Trust, including amounts deposited in the memorandum account for purposes of reimbursing the California High-Cost Fund-B Trust, revert to the General Fund in the State Treasury, with all amounts in the memorandum account reverting for the purpose of funding the California High-Cost Fund-B Trust account in the State Treasury.

This bill would instead require that on July 1, 2002, any funds in the DEAF Trust that were deposited in the memorandum account for purposes of reimbursing the California High-Cost Fund-B Trust revert to the Controller for deposit in the California High-Cost Fund-B Trust Committee Fund in the State Treasury. The bill would also require that on July 1, 2003, any funds remaining in the DEAF Trust, exclusive of those funds in the memorandum account, revert to the Deaf ~~And~~ and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

(2) Existing law establishes the Deaf and Disabled Telecommunications Program Administrative Committee (committee) to

advise the Public Utilities Commission regarding the implementation, development, and administration of programs to provide specified telecommunications services and equipment to persons who are deaf or disabled, and to carry out the programs pursuant to the commission's direction, control, and approval. Existing law establishes the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury to carry out the programs pursuant to the commission's direction, control, and approval, and requires the commission to report to the Governor and the Legislature regarding a transition plan for programs associated with the fund.

This bill would , *commencing July 1, 2003*, rename the committee the Telecommunications Access for Deaf and Disabled Administrative Committee, and delete the authority of the committee to carry out programs pursuant to the commission's direction, control, and approval. The bill would require the committee to advise the commission on certain contracts and agreements related to deaf and disabled telecommunications programs and to submit recommendations to the commission for the administration and governance of certain deaf and disabled telecommunications programs. The bill would require the commission to establish qualifications for persons to serve as members of the committee so that consumers of telecommunications services for the deaf and disabled represent not less than 2/3 of the membership of the committee and, to the extent feasible, that one of those members have experience in the administration of similar deaf and disabled telecommunications programs. The bill would require , *commencing July 1, 2003*,

that any staffing costs incurred by the commission for the oversight and administration of the deaf and disabled telecommunications programs be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(3) Existing law requires that all revenues collected by telephone corporations in rates to fund the deaf and disabled telecommunications programs be submitted to the commission. Existing law requires that *commencing July 1, 2002*, the commission transfer the moneys received, and all unexpended revenue collected prior to July 1, 2002, to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

This bill would instead require the commission to transfer the moneys received, including unexpended revenue collected prior to July 1, 2003, *commencing July 1, 2003*.

(4) Existing law requires the commission to design and implement various programs to provide telecommunications services to deaf, disabled, and hearing-impaired individuals.

This bill would authorize the commission to contract with entities, including nonprofit entities, or persons with necessary expert knowledge, ability, and experience to provide, manage, or operate specified telecommunications services and equipment for the deaf and disabled telecommunications programs. The bill would require any contractor the commission selects to deliver these services to consult with the Telecommunications Access for Deaf and Disabled Administrative Committee regarding the specialized needs of individuals using the deaf and disabled telecommunications services and equipment.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 270.1 of the Public Utilities Code is amended to read:

270.1. (a) Notwithstanding any other provision of law, the commission may authorize the trustee of the California High-Cost Fund-B Trust to transfer to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) money sufficient to cover the costs of the ~~program~~ *programs* as specified in subdivision (a) of Section 278, including, but not limited to, all costs specified in subdivision (c) of Section 278. The amount of any transfer of money authorized may not exceed the cost of operating the ~~program~~ *programs* for six months. The commission shall also establish other terms of the transfer, as it determines to be appropriate.

(b) The commission shall reimburse the California High-Cost Fund-B Trust for any transfer of money to the DEAF Trust authorized pursuant to subdivision (a), with interest as determined by the commission.

(c) A sum equivalent to the amount of money transferred to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) pursuant to subdivision (a) is hereby appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission, for allocation to the California High-Cost Fund-B Trust, for purposes of subdivision (b).

(d) Funds may not be transferred from the California High-Cost Fund-B Trust to the DEAF Trust pursuant to subdivision (a) after September 30, 2001.

(e) Commencing on October 1, 2001, and until a date not later than June 30, 2002, reimbursements made to the California High-Cost Fund-B Trust pursuant to subdivisions (b) and (c) shall be deposited in a separate memorandum account within the DEAF Trust, subject to the terms specified in subdivision (b).

(f) On July 1, 2002, any funds in the DEAF Trust deposited in the memorandum account for purposes of reimbursing the California High-Cost Fund-B Trust shall revert to the Controller for deposit in the California High-Cost Fund-B Trust Committee Fund in the State Treasury rather than the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(g) Commencing on July 1, 2003, any funds remaining in the DEAF Trust, exclusive of those identified in subdivision (f), shall revert to the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

SEC. 2. Section 278 of the Public Utilities Code is amended to read:

278. (a) (1) ~~There~~ *Commencing on July 1, 2003, there* is hereby created the Telecommunications Access for Deaf and Disabled Administrative Committee, formerly the Deaf and Disabled Telecommunications Program Administrative Committee, as an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in Sections 2881, 2881.1, and 2881.2.

(2) In addition to the membership qualifications established by the commission pursuant to subdivision (a) of Section 271, the commission shall establish qualifications for persons to serve as

members of the Telecommunications Access for Deaf and Disabled Administrative Committee so that consumers of telecommunications services for the deaf and disabled comprise not less than two-thirds of the membership of the committee. To the extent feasible, one of those members shall have experience in the administration of programs similar to those provided for in Sections 2881, 2881.1, and 2881.2.

~~It is the intent of the Legislature that existing members of the former Deaf and Disabled Telecommunications Program Administrative Committee should serve out their current terms of office as members of the committee.~~

(3) As part of its advisory role, as specified in paragraph (1), the Telecommunications Access for Deaf and Disabled Administrative Committee shall do all of the following:

~~(A) Advise the commission regarding contracts and~~
Administrative Committee shall advise the commission regarding contracts and agreements related to the Deaf and Disabled Telecommunications Program as specified in subdivisions (d) and (e) of Section 2881.4.

~~(B) Develop and submit, not later than October 1, 2002, recommendations to the commission for the administration and governance of the programs described in Sections 2881, 2881.1, and 2881.2, including recommendations for the establishment of a designated office and program function, within state government, staffed in a manner designed to provide expert oversight and governance to ensure the long term quality and integrity of programs and services offered through the Deaf and Disabled Telecommunications Program.~~

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. Commencing on July 1, 2003, and continuing thereafter, the commission shall transfer the moneys received, and all unexpended revenue collected prior to July 1, 2003, to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

(c) Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the programs specified in subdivision (a), including all costs of the committee and the commission associated with the administration and oversight of the program and the fund.

~~(d) Staffing costs incurred by the commission for oversight and administration and oversight of the programs and the fund.~~

(d) Commencing on July 1, 2003, staffing costs incurred by the commission for oversight and administration of the programs described in subdivision (a) shall be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

SEC. 3. Section 278.5 is added to the Public Utilities Code, to read:

278.5. (a) It is the intent of the Legislature that existing members of the Deaf and Disabled Telecommunications Program Administrative Committee should serve out their current terms of

office as members of the committee, but not to exceed July 1, 2003.

(b) *The Deaf and Disabled Telecommunications Program* Administrative Committee shall develop and submit, not later than October 1, 2002, recommendations to the commission for the administration and governance of the programs described in Sections 2881, 2881.1, and 2881.2, including recommendations for the establishment of a designated office and program function, within state government, staffed in a manner designed to provide expert oversight and governance to ensure the long-term quality and integrity of programs and services offered through the Deaf and Disabled Telecommunications Program.

SEC. 4. Section 2881.4 is added to the Public Utilities Code, to read:

2881.4. (a) The Legislature finds and declares all of the following:

(1) Section 278 requires the commission to transfer to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund all revenues collected by telephone corporations to fund programs to provide specified telecommunications services and equipment to deaf, disabled, and hearing-impaired persons, as specified in Sections 2881, 2881.1, and 2881.2.

(2) The commission issued a report to the Legislature in May 2001, addressing compliance issues pertaining to the programs specified in Sections 2881, 2881.1, and 2881.2, including a recommendation to secure legislative authorization for the commission to contract with outside entities for the provision of services and equipment mandated by Sections 2881, 2881.1, and 2881.2.

(3) The telecommunications services and equipment provided to deaf, disabled, and hearing-impaired individuals and their families, as specified in Sections 2881, 2881.1, and 2881.2, are of such a highly specialized and technical nature that the necessary expert knowledge, ability, and experience are not available within the current state civil service system.

(4) It is the intent of the Legislature, in enacting this section, to do all of the following:

(A) Maintain the availability of the state's current statewide infrastructure of telecommunications services and equipment to deaf, disabled, and hearing-impaired persons, as provided for in Sections 2881, 2881.1, and 2881.2, as essential to maintaining public health and safety.

(B) Authorize the commission to enter into contracts for the provision of telecommunications services and equipment for deaf, disabled, and hearing-impaired persons in a manner that protects and enhances the current statewide infrastructure and coordinated delivery of those services and equipment and includes a priority for maintaining long-term continuity of program administration and maximum involvement of the deaf and disabled community in program governance.

(C) Strengthen program priorities for expanded outreach through continuing consultation with, and participation by, the deaf, disabled, and hearing-impaired community in order to ensure the state's network of services reach hard-to-serve populations, including rural, innercity, and urban areas.

(D) Develop a mechanism to achieve ~~cost-effective~~ *cost-effective* and timely deployment of new and emerging telecommunications technologies, to the extent fiscally and economically feasible.

(b) In order for the commission to ensure continued provision of

telecommunications services and equipment for deaf, disabled, and hearing-impaired persons, the commission, subject to annual appropriation of funds by the Legislature and consistent with state contracting requirements, may contract with entities, including nonprofit entities, or persons that have the necessary expert knowledge, ability, and experience to provide, manage, or operate the programs described in Sections 2881, 2881.1, and 2881.2.

(c) The commission may enter into contracts pursuant to subdivision (b) of Section 19130 of the Government Code for the services and equipment contemplated by the programs described in Sections 2881, 2881.1, and 2881.2.

(d) The commission may include provisions that accomplish any of the following in contracts authorized by this section:

(1) Establish standards and procedures, including prior commission approval, for subcontracting.

(2) Establish standards and procedures regarding personnel and accounting practices.

(3) Require budget approval.

(4) Require periodic audits.

(5) Monitor performance and establish performance standards and the method of evaluating performance, including remedies for unsatisfactory performance.

(6) Establish standards and procedures to investigate and resolve complaints.

(7) Provide for any other terms or restrictions as the commission finds necessary to ensure that the public funds are used in accordance with the goals of the Legislature and the commission.

(e) Notwithstanding any other provision of law, any contract entered into pursuant to this section may provide for periodic advance payments for telecommunications services to be performed or telecommunications equipment to be provided. No advance payment made pursuant to this section may exceed 25 percent of the total annual contract amount.

(f) Any contractor the commission selects shall demonstrate knowledge of and the capacity to provide specialized telecommunications services and equipment to deaf, disabled, and hearing-impaired persons, and shall be required to consult with the Telecommunications Access for Deaf and Disabled Administrative Committee regarding the specialized needs of individuals utilizing program services and equipment, as specified in Sections 2881, 2881.1, and 2881.2.

(g) The commission shall, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the programs described in Sections 2881, 2881.1, and 2881.2 who are members of the deaf, disabled, and hearing-impaired community.

~~SEC. 4.~~

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the programs specified in Sections 2881, 2881.1, and 2881.2 of the Public Utilities Code remain in continuous operation, it is necessary for this act to take effect immediately.